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September 22, 2021

Hon. John P. Cronan
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl Street
 New York, NY 10007

Re: *Al Thani v. Hanke et al.*, Case No. 1:20-cv-4765 (JPC)

Dear Judge Cronan:

We are counsel to plaintiff Mohammed Thani A.T. Al Thani (“Plaintiff”) in the above captioned case. We are writing with respect to the Court’s order setting a conference for 11:00 a.m. this Friday, September 24, and to the letters submitted by Brooks, Berne, & Herndon PLLC (“BBH”) on behalf of Defendants Alan J. Hanke (“Hanke”) and IOLO Global LLC (“IOLO” and, together with Hanke, the “Hanke Defendants”) regarding the conference and its pre-motion letter to withdraw as counsel.

On September 21, 2021, the Court ordered the parties to appear for a conference on September 24, 2021 at 11:00 a.m. ECF No. 230. Unfortunately, I have a pre-existing and unavoidable personal conflict shortly after the start time for the conference, which may interfere with the completion of the conference. And Mr. Ducharme is currently on trial before the Honorable Louis L. Stanton and is thus unavailable. I am available, however, earlier in the morning on September 24, as well as early next week. Plaintiff respectfully requests that the conference scheduled for September 24 at 11:00 a.m. be scheduled earlier in the morning on September 24, or adjourned to a later date convenient for the Court. This is Plaintiff’s first request for an adjournment of the conference. We have conferred with opposing counsel and pro se parties, and they do not object to Plaintiff’s request, but have indicated scheduling issues.¹

Turning to BBH’s letters, BBH’s first letter, ECF No. 232, requests leave for Richard Berne to appear as lead counsel for the Hanke Defendants at the conference in place of Thomas Herndon, pursuant to Your Honor’s Individual Rule 5.A. Plaintiff does not oppose this request.

BBH’s second letter, ECF No. 233, responds to Plaintiff’s arguments against BBH’s pre-motion to withdraw letter. Plaintiff continues to oppose this requested relief for the reasons outlined in his response letter. ECF No. 229. In addition to the reasons contained in that letter, a

¹ Defendant Amy Roy-Haeger has indicated she is unavailable Friday, September 24 from 9:30 a.m. to 11:00 a.m. EST. Counsel for the Hanke Defendants have indicated they are available Friday morning. Both Defendant Roy-Haeger and counsel for the Hanke Defendants have indicated availability Monday morning and afternoon. An email to Defendant SGIT’s email address returned as undeliverable.

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recent development in the Hanke Defendants' bankruptcies warrants denying the motion to withdraw. Under oath,² Hanke stated in a Section 341 hearing on September 20, 2021, that his review of responsive documents did not cover roughly 30 email addresses Hanke had access to through domain names for various websites. This includes the email address, admin@metrostatescapitalbank.com, which was used to send at least one email to Hanke, which Hanke then forwarded to Plaintiff acting as if the email proved funds would pay out to Plaintiff in the near future. BBH's continued presence in the case is warranted to ensure Plaintiff and the Court have access to "insights from the lawyer involved in the discussions over discovery" in determining the currently stayed requests to compel production and for sanctions against the Hanke Defendants and BBH. *See Trustees of New York City Dist. Council of Carpenters Pension Fund, Welfare Fund, Annuity Fund, & Apprenticeship, Journeyman Retraining, Educ. & Indus. Fund v. NYC Flooring L.L.C.*, No. 19-CV-6441 (LJL), 2020 WL 7016449, at *1 (S.D.N.Y. Oct. 7, 2020).

Moreover, sanctions for failing to comply with discovery obligations can be levied against parties and against attorneys advising parties. Fed. R. Civ. P. 37(a)(5)(A), 37(b)(2)(C). Permitting BBH to withdraw now, given Hanke's testimony in the bankruptcy proceeding, is therefore, at the very least, premature.

We thank the court for its consideration.

Respectfully submitted,

By: /s/ Michael C. Heft
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cc: All counsel (by ECF)
 Amy Roy-Haeger (by ECF)
 Laura Romeo (by ECF)

The teleconference scheduled for September 24, 2021 is adjourned to September 27, 2021 at 2:30 p.m. At the scheduled time, all parties should call (866) 434-5269, access code 9176261.

SO ORDERED.

Date: September 22, 2021
 New York, New York


 JOHN P. CRONAN
 United States District Judge

² Plaintiff is in the process of procuring the official recordings of the Section 341 meetings.